



**APPROVED**

**BOARD OF ADJUSTMENT  
CITY OF SCOTTSDALE  
3939 NORTH DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA  
APRIL 5, 2006**

**REGULAR MEETING MINUTES**

**PRESENT:** Carol Perica, Chairman  
Jennifer Goralski, Vice-Chairman  
Terry Kuhstoss, Board Member  
Ernest Jones, Board Member  
Howard Myers, Board Member  
James Vail, Board Member  
Neal Waldman, Board Member

**STAFF PRESENT:** Tim Curtis  
Sherry Scott  
Brad Carr  
Mac Cummins

**CALL TO ORDER**

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chairman Perica at 6:01 p.m.

**ROLL CALL**

A formal roll call confirmed the members present as stated above.

**APPROVED 5/3/2006**

### **APPROVAL OF MINUTES**

1. February 1, 2006 Board of Adjustment Study Session Minutes
2. February 1, 2006 Board of Adjustment Minutes

**BOARD MEMBER KUSTOSS MOVED THE APPROVAL OF THE MINUTES OF THE FEBRUARY 1, 2006, BOARD OF ADJUSTMENT STUDY SESSION MINUTES. THE MOTION WAS SECONDED BY BOARD MEMBER MYERS, AND CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).**

**BOARD MEMBER KUSTOSS MOVED THE APPROVAL OF THE MINUTES OF THE FEBRUARY 1, 2006, BOARD OF ADJUSTMENT REGULAR MEETING MINUTES. THE MOTION WAS SECONDED BY BOARD MEMBER MYERS, AND CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).**

### **REGULAR AGENDA**

Chairman Perica read the opening statement that describes the role of the Board of Adjustment and the procedures used in conducting this meeting.

3. 1-BA-2006 Granite Reef Mountain Lofts

Mr. Brad Carr, Planner, addressed the board. Highlights of his presentation included an aerial view of the area, a zoning map, a review of the zoning ordinance requirement, and a site plan. He summarized that the Applicant is asking for a variance to waive the requirement for a ten-foot setback. The proposed building is circular in shape, so that much of the building is beyond the setback, but small areas of it are on the property line.

Addressing the four criteria that must be met for a variance to be granted, Mr. Carr noted that the lot is small and irregular in shape, with a large vehicle access easement along its south edge. Staff have noted that this existing access removes approximately 4,000 square feet of buildable area. The Applicant has stated that granting the variance would allow the owner to obtain density similar to that enjoyed by other properties in the area, resulting in more beneficial common areas for future residents. The density the Applicant is proposing is roughly half of that allowed for the site. These special circumstances were not created by the Applicant. The size and shape of the lot and the existing vehicle access easement were created some time ago. Mr. Carr noted that the zoning ordinance did not contemplate a circular building design. The Applicant notes that the proposed design provides a larger front and rear setback and open space at the perimeter of the project to create a landscape buffer to adjacent properties. Staff note that there are no buildings within at least 100 feet of those property lines for which the variance has been requested.

Kami Goldfarb addressed the commission on behalf of the Applicant. Board Member Myers suggested that if the lines of the building were to be slightly straightened, there would be no need for a variance.

Ms. Goldfarb explained that the open area in the center of the building would be needed for vehicle access rather than open landscaped space. She noted that the current Code does not take infill projects into consideration. The design they are proposing will provide a pool, green space, a shade structure, and landscape buffering from surrounding properties. This design is intended to create a sense of community.

Board Member Jones asked what is the total square footage of the requested variance in relation to the square footage of the total project. After discussion, Ms. Goldfarb guesstimated that it is about 12 percent.

Board Member Vail asked Board Member Myers to explain what he meant by straightening the lines of the building. Board Member Myers pointed out the lines that he believes could be extended.

Ms. Goldfarb explained that if the lines were straightened, the circular driveway would be lost. This is a requirement for fire and traffic access. Otherwise the driveway would have to be 18 feet wide and this would eliminate ten units from the plan. She noted the current density allowed on this site is 23 units, and the developer is planning for 20.

Board Member Myers said he was not suggesting any changes to the inside design. He just suggested extending the lines of the outside of the building to the property line. Board Member Goralski discussed possible modifications that might eliminate the need for a variance. Ms. Goldfarb replied that increasing hardscape would create more of a heat island.

Board Member Vail recalled a similar case that came before the Board previously and some of the difficult issues raised.

Board Member Myers asked staff if the Applicant could have a zero setback in some parts of the design and a ten-foot setback in other parts. Mr. Curtis explained that if any part of the building was on the property line, the building would have to be notched back at least ten feet.

Mr. Mark Richman, developer of the project, spoke. His aim was to create affordable housing that that would enhance the area. He addressed Board Member Myers' comments about extending the walls. His understanding from conversations with staff was that the building had to be either entirely on the lot line or entirely with a minimum ten-foot setback.

Board Member Myers asked staff to confirm the regulation regarding setback distances. In response, Mr. Carr presented a quick sketch of what would be a scenario for that instance. All of the structure would need to be on the zero line until a ten-foot setback could be achieved.

Ms. Goldfarb explained that the regulations regarding fire truck access into the facility would not permit changes to the design of a circular driveway. She opined that the current zoning ordinance does not contemplate situations with a unique design and that cases like the present will become more frequent as more infill development takes place.

A discussion ensued. Board Member Myers remarked that there are clearly special circumstances with this particular lot. The design is fine and would be of benefit to the neighborhood. He was having trouble with the criteria regarding the right to property enjoyment and whether or not the problem was created by the Applicant.

Board Member Waldman commented he felt that the four requirements could be said to be met. He commended the developer and architect for the project, and would support the granting of a variance.

Board Member Kuhstoss opined that the design is wonderful, but the case does not meet the four criteria because this is a self created situation. She would be voting against the variance.

Board Member Goralski maintained that some of the walls could be pushed out. Although the request is for a small variance, she would likely not support the request.

Board Member Vail will support the request. He commended the design.

Board Member Jones felt the four criteria were met and will support the request for variance.

Chairman Perica added she would also support the variance

**BOARD MEMBER JONES MOVED THE APPROVAL OF THE VARIANCE FOR CASE 1-BA-2006. BOARD MEMBER VAIL SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF FOUR (4) TO THREE (3). BOARD MEMBERS KUSTOSS, MYERS, AND GORALSKI VOTED AGAINST THE MOTION.**

#### **ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 6:40 p.m.

Respectfully submitted,  
A/V Tronics, Inc.